

My name is William Gage. I am an attorney who has practiced in Michigan for over 40 years, mostly in Wayne, Oakland and Macomb Counties. I have specialized exclusively in medical malpractice litigation for most of my career.

I have seen many changes and proposed changes over this time in malpractice law, but I have never seen a proposal as radical as those contained in the bills under consideration.

Senate Bill 1110 would change the standard of practice to Gross Negligence for a patient entering through the emergency room and into the hospital for treatment of that emergency and SB 1116 would change the standard of care for all physicians to a subjective standard of good faith belief that he or she was acting in the best interest of the patient.

Both of these laws would, as a practical matter, do away with the standard of reasonable care which is embodied in the current standard of practice.

Under current law a physician is required to live up to a standard set by other doctors in treating a patient under similar circumstances. In other words he is required to treat his patient at least as well as other doctors of ordinary skill and ability would under the same clinical situation. This standard is essentially the standard of reasonable care adapted to the medical profession.

The reasonable care standard is the standard of care which all private citizens and business organizations are required to follow and have been required to follow since the founding of this Country.

It is a simple proposition: You conduct your personal and business activity with reasonable care to avoid injuring me and my family and I do the same for you. If one of us is careless and causes serious injury or kills the other or a family member then they are answerable in court of law for the damage they have caused. This is part of the social contract upon which our society is based.

This rule has applied to every citizen of this Country from the beginning. It applies to all professions. The only difference with a professional is that expert testimony is required to assist the Jury in determining what was reasonable conduct for that professional under the circumstances of the case.

The proposed bills seek to create a special class of citizens and business, namely doctors, the hospital industry and the malpractice insurance industry and excuse them for their careless acts which cause serious injury and death of another citizen. This would in a very real sense place one set of citizens and business above all others in the most serious interactions between members of our society.

I have heard no justification which would warrant such a radical course of action. There is no malpractice crisis in this State. With the last set of privileges provided to the medical and insurance industry, claims have fallen by 80% and payouts by 60%.